

IN SENATE OF THE UNITED STATES.

JUNE 19, 1848.

Submitted, and ordered to be printed.

Mr. WESTCOTT made the following

REPORT:

[To accompany bill S. No. 232.]

The Committee on the Judiciary, to whom was referred Senate bill No. 232, entitled "A bill for the relief of Gamaliel Taylor, late marshal of the district of Indiana, and his sureties," report:

That said Taylor was marshal of said district in 1836, and for some years subsequently; that J. F. D. Daniels, Elmor Tate, A. W. Flint, and S. Robinson, were his sureties on his official bond; that in April, 1838, he received a distress warrant in favor of the United States against J. T. Pollock, receiver of public moneys at Crawfordsville, Indiana, for \$40,498 37, which he proceeded forthwith to execute; that before or in August, 1838, he paid to the treasury, by taking up drafts drawn on him by the treasury, \$15,335 06, of which the marshal was advised by the Solicitor, and also informed them of other outstanding drafts which, if paid by Pollock, would leave due but \$5,286 06, and that Pollock solicited indulgence for this balance. These drafts were not all duly honored by Pollock up to 21st of November, 1838, when it appears there was still a balance due on the warrant of \$14,891 98. There was a judgment, a lien on Pollock's lands in the federal court of Indiana older than the warrant, and other judgments subsequent to the warrant were obtained in same court by individuals. In February, 1839, the marshal made levies in the execution of said warrant on these judgments. He allowed Pollock to sell wheat and horses to meet part of the treasury drafts against him, and the proceeds were so appropriated and the balance reduced thereby. Pollock eloiigned some of his personal property; the marshal sold all his lands and property that he could obtain, and the proceeds were applied on the execution and warrant according to law. There is a balance unpaid by Pollock of \$6,051 95. Taylor ceased to be marshal in January, 1840. It appears the treasury officers are seeking to coerce Taylor and his sureties to pay this on the alleged ground that he should have prevented Pollock from eloiigning his goods, and should have executed the warrant. From the documents filed, the committee are satisfied, 1st. That the interference of the

treasury officers in the collection of part of the debt from Pollock on the warrant while it was in his hands, was such, that if it was the case of an *individual* plaintiff, would exonerate the marshal. 2d. That the marshal acted with fidelity and due diligence in the case, and under the instructions of the treasury, and is not liable justly, and should not be held liable for the property eloigned by Pollock; and in fact, that the course pursued by the marshal advanced the interests of the United States. The committee, if they err in this, are satisfied that, under the circumstances of this case, it would be an extremely rigorous enforcement of the law to collect the balance due from Pollock of Taylor and his sureties, even if they may be held liable under the strict rules of law, and they accordingly report the bill referred to them with an amendment striking out all after the enacting clause, and authorising a settlement of the accounts of said Pollock on principles of justice and equity, charging him with what he received, and allowing him his fees and costs, which they recommend be adopted, and the bill, as amended, passed.